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THE UNIVERSITIES OF SCOTLAND
AND THE
ELECTION OF THEIR REPRESENTATIVES
TO THE
GENERAL MEDICAL COUNCIL.

A Statement

BY

SIR WILLIAM TURNER, KNT.,
M.B., LL.D., F.R.S.,
PROFESSOR OF ANATOMY IN THE UNIVERSITY OF EDINBURGH, AND
MEMBER OF THE GENERAL MEDICAL COUNCIL.

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STATEMENT.

AT the meeting of the General Council of the University of Edinburgh in April 1887, the right of the Senatus Academicus of that University, and inferentially that of the Senatus of each of the other Universities of Scotland, to elect the representative of the University to the General Medical Council of the United Kingdom, as required by the Medical Acts 1858 and 1866, came under discussion. By some members of the General Council of the University it was contended that the election should be exercised by that body, and not by the Senatus. A short statement of the rights and duties of the Senatus and the General Council, in reference to this matter, may not therefore at the present time be inappropriate.

The Universities (Scotland) Act 1858 created a General Council, consisting *inter alios* of the Graduates of the University, and a University Court, and defined the duties of both these bodies and of the Senatus Academicus.

In Section V. it is enacted that—

“It shall be competent to such Council to take part in the election of office-bearers of the University in manner herein provided, and also to take into their consideration all questions affecting the well-being and prosperity of the University, and to make representations from time to time on such questions to the University Court, who shall consider the same, and return to the Council their deliverance thereon.”

In Section II. it is provided that the General Council shall elect a Chancellor, and in Section XI. it is also provided that an Assessor to the University Court is to be elected by the General Council. These are the only office-bearers which the Act expressly empowers the General Council to elect. They form an integral part of the University, and are appointed to discharge duties within it; whereas the functions of the representative of the University in the General Medical Council are altogether external.

But the Council had no power to proceed to the election of either a Chancellor or an Assessor until Regulations for that purpose had been made by the Universities Commissioners appointed under the Act, and who had been instructed (Section XV., sub-section 4)—

“To make regulations as to time, place, and manner of presenting and electing all University officers.”

The Commissioners accordingly framed an Ordinance, 12th March 1859, and issued Resolutions, 25th October 1859, which enabled the Council to proceed in the same year to the election of a Chancellor and an Assessor. Subsequently, on 2nd July 1860, the Commissioners consolidated the Ordinance and Resolutions into Ordinance No. 11, under which the General Council has since that time conducted the elections of both Chancellor and Assessor.

The Commissioners made no provision for the election of a representative of the University in the General Medical Council. It is obvious, therefore, that they did not regard the representative to be chosen by the University to that Council as an “office-bearer of the University” in the sense of Section VI. of the Universities Act. Although the Universities Act and the Medical Act 1858 received the Royal

Assent on the same day (2nd August), yet the Commissioners did not cease their labours in framing Ordinances for the government of the Universities down to the year 1863. It cannot be supposed they were ignorant that the Universities of Scotland were required to return representatives to the Medical Council ; and if they had felt that these representatives should have been elected by the General Council, and not by the Senatus of each University, they would undoubtedly have prepared an Ordinance as to the time, place, and manner of electing such office-bearers, but this they did not do.

It is true that the General Council of the University of Edinburgh did subsequently acquire the power to return, along with that of the University of St Andrews, a member of Parliament, but this power was specially granted by the Representation of the People (Scotland) Act, in which Act the mode of conducting the election is expressly defined.

The right to appoint a member in the Medical Council by the University of Edinburgh was originally conferred by the Medical Act 1858, which provides for "one person chosen from time to time by the University of Edinburgh and the two Universities of Aberdeen collectively." By the Act of 1886 this power was altered, so as to give to the University of Edinburgh and to the University of Aberdeen the right to choose each a member.

The question therefore is, By what body within the University is this person to be chosen ?

As has just been pointed out, the General Council is not the body by which the election can be conducted, as its powers are limited and defined both by the Universities Act and by the Ordinances. Similarly, the University Court is not the electoral body, as its powers of election are limited by the Act to the nomination or presentation to

certain Professorships. There remains, therefore, only the *Senatus Academicus* by whom this power can be exercised.

In Section V. of the Universities Act, it is stated that—

“The *Senatus Academicus* of each of the said Universities . . . shall possess and exercise the powers heretofore belonging to a *Senatus Academicus*, in so far as the same are not modified or altered by or in pursuance of this Act, and shall superintend and regulate the teaching and discipline of the University, and administer its property and revenues, subject to the control and review of the University Court, as hereinafter provided.”

The Act, therefore, confirmed to the *Senatus* of the Universities of Glasgow, Aberdeen, and St Andrews, the general administrative powers previously exercised by them, except in so far as they were modified by the Act, and placed the *Senatus* of the University of Edinburgh on the same footing as the *Senatus* of each of the sister Universities. To quote from the General Report of the Scottish Universities Commissioners, 1863, p. v.—

“Under the Universities Act the ordinary administration of the affairs of each of the Universities is now vested in the *Senatus Academicus*.”

As regards the exercise of their administrative powers in the election of representatives to bodies external to the Universities, the *Senatus Academicus* of each University has, for a long period of years, been accustomed to elect the representative of the University in the General Assembly of the Church of Scotland.

In October 1858 the *Senatus* of the University of Edinburgh chose the first representative of the University in the General Medical Council under the Medical Act 1858. At that time the General Council was not constituted, and the University Court had not received its full complement of members. The election was made by the

Senatus in virtue of the powers of administration with which it was vested. The Senatus has continued, as vacancies occurred, to choose the representative down to the present time.

This action of the Senatus has never been appealed against, although the Universities Act gives power to the University Court to review all decisions of the Senatus Academicus, and to be a Court of Appeal from the Senatus.

But, further, it has on more than one occasion been endorsed by Her Majesty's Privy Council, both as regards the University of Edinburgh and the other Scottish Universities. By the Medical Act 1858 it was provided that, if the two Universities conjoined for the purpose of choosing a representative in the General Medical Council did not agree upon the same person, but each selected a different person, that Her Majesty in Council should appoint one of the persons so selected to be a member of the General Medical Council for the said Universities.

In illustration of this I may quote from an Order of Her Majesty in Council, of date December 9th 1868, when Professors Syme and Macrobine had been chosen by the Senatus of their respective Universities:—

“And whereas the said Universities of Edinburgh and Aberdeen have not been able to agree upon some one person to represent them in the said General Council, and in pursuance of the said fifth section of the said Act the said University of Edinburgh hath selected the said James Syme, and the said University of Aberdeen hath selected John Macrobine, M.D., Professor of the Practice of Medicine in the University of Aberdeen and Dean of the Medical Faculty, and have submitted the names of the said two persons to Her Majesty in Council. Now, therefore, Her Majesty, by and with the advice of her Privy Council, doth, under and by virtue of the provisions in that behalf contained in the said Medical Act, appoint the said John Macrobine, M.D., to



be a member of the said General Council for the said Universities of Edinburgh and Aberdeen for the term of five years from the date hereof."

But some further light on the election of representatives to the General Medical Council may be obtained by a reference to the action of certain of the other Universities and Medical authorities of the United Kingdom, on which the Medical Act 1858 has conferred the power of choosing representatives.

The representative to be chosen by the University of London is elected by the Senate of that University, a body consisting of thirty-six members, and not by the General Convocation of Graduates. The Royal College of Physicians of London chooses its representative through its Fellows ; its Members and Licentiates take no part in the election. The Royal College of Surgeons of England chooses its representative through its Council, a body consisting of twenty-four persons elected by the Fellows, but its Members take no part in the election. The Society of Apothecaries of London chooses its representative by the Master, Warden, and Assistants, a body consisting of twenty-four persons, and not by the Licentiates.

In Scotland, in the Royal College of Physicians of Edinburgh, the Fellows of the College on the roll of attendance choose the representative, whilst the non-resident Fellows, the Members, and Licentiates take no part in the election. In the Royal College of Surgeons of Edinburgh, the Fellows are the electoral body, whilst the Licentiates have no voice ; and the same is the case in the Faculty of Physicians and Surgeons of Glasgow.

In Ireland the King's and Queen's College of Physicians, chooses its representative by the President and Fellows ; and the Royal College of Surgeons, by the President, Vice-President, and Council, a body of twenty-one persons

elected by the Fellows. In neither Corporation do the Licentiates participate in the election, and in the Royal College of Surgeons the general body of Fellows have not a direct voice. The representative chosen by the University of Dublin is elected by the Provost and Senior Fellows of Trinity College, a body consisting of eight members, and not by the general body of Graduates. In the Royal University of Ireland the representative is chosen by the Senate, a body consisting of thirty-seven members, and not by the Graduates.

In the Universities of Cambridge and Oxford the representative is chosen by the Senate and the Convocation respectively, which consist of those Masters and Doctors whose names are retained on the books of the University. This may at first sight seem an exception or divergence from the practice already adverted to, but has its explanation in the fact that every important act of administration in these Universities requires the sanction of the Senate or the Convocation, as the case may be.

It is evident, therefore, that the large majority of the Medical authorities empowered to choose representatives on the General Medical Council, make the election, not through the general body of graduates, or members, or licentiates, or in some cases even by the whole number of fellows, but by that particular body which in each institution is the administrative body of the authority in question. The general expressions, therefore, employed in the Medical Act, of University of Dublin, University of Edinburgh, Royal College of Surgeons of England, Royal College of Physicians of Edinburgh, &c., have not been interpreted to mean the entire body of the University or the College, as the case may be, but, as regards the choosing of a representative on the Medical Council, that element in the

institution by which the administrative and governing functions are exercised.

A few words may now be said on the constitution and functions of the General Medical Council. By the Medical Act 1858 it consisted of twenty-four persons, either nominated by the Crown or chosen by the Universities and the Medical and Surgical Corporations of the United Kingdom. By the Act of 1886 power was also given to all Registered practitioners of medicine to elect representatives in the Council, three for England, one for Scotland, one for Ireland. Every practitioner of medicine, and consequently every medical graduate of the University, has therefore a voice in the election of one or more representatives in the Medical Council, according to the division of the United Kingdom in which he resides; and a large number of the medical graduates resident in Edinburgh have also, in virtue of being Fellows of either the Royal College of Physicians or the Royal College of Surgeons, a voice in choosing the representatives of these bodies in the Medical Council.

The functions to be discharged by the Council are of a strictly special and professional character; more especially the registration of medical, dental, and sanitary diplomas, and the supervision of medical education and examinations, with the view of ensuring a proper standard of proficiency on the part of practitioners of medicine.

Whilst the general interests of the public and of the medical profession in such matters are safe-guarded by the presence in the Council of the Crown nominees and the representatives elected by the registered medical practitioners, the persons chosen by the Universities and the Medical and Surgical Corporations are selected for their special knowledge of the subjects on which the Council has to deliberate. The object which the

Legislature obviously had in view in giving power to the Universities and Corporations to choose representatives, was that there should be present in the Council persons actually engaged in the work of medical education and examining in the institutions which elected them.

The question therefore naturally arises, What body forming a part of the organisation of a University or Medical and Surgical Corporation is the best fitted to make a proper selection? According to the unanimous practice of the Medical authorities throughout the United Kingdom, this duty is performed by the administrative and governing body. With two or three exceptions this consists of a limited number of persons, and not of a large and widely scattered consultative body like the General Council of a Scottish University. And this is both expedient and right ; for it is the administrative body which of necessity takes the most active and, one may say, living interest in the affairs of the institution. Its members have continually under observation and discussion matters connected with the welfare and duties of the institution, and the consideration of questions connected with education and examination form a part of their daily obligations. Such a body therefore is best able to select the person who, by his practical knowledge of the working of the institution, can most fitly represent it in the Medical Council, and give advice and information on matters connected with Medical education and examinations generally ; who can answer questions, either in committee or debate, on points specially referring to the practice of the institution which he represents ; and who can defend the rights, privileges, and action of his institution, should it at any time be assailed.



